



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,212	12/13/2001	Richard Wodzianek	034300-168	1206

7590 01/21/2005

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

EXAMINER

SHIFERAW, ELENI A

ART UNIT	PAPER NUMBER
----------	--------------

2136

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,212

Applicant(s)

WODZIANEK ET AL.

Examiner

Eleni A Shiferaw

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/14/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-27 are represented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7, 9, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (Pub. No.: US 2002/0090939 A1) in view of Chiles et al. (Chiles, Patent No.: US 6,363,423 B1).

As per claim 1, Howard teaches a method comprising:

Howard teaches a wireless network card, PDA and notebook to connect to other computers. (Howard page 1 par. 0009),

Howard does not teach:

checking a wireless network card for a stored platform discrimination indication; and

depending on the value of the platform discrimination indication, inhibiting or allowing data transfer using the wireless network card.

However Chiles discloses checking a wireless network card for a stored platform discrimination indication (Chiles Col. 3 lines 37-48; checking the network adapter card if media access control is stored in the network adapter card); and

depending on the value of the platform discrimination indication, inhibiting or allowing data transfer using the wireless network card (Chiles Fig. 4 No 270 & 320, and 300; if the serial number assigned to the network received and the server searches the media access control address corresponding to the serial number of the network card and if match it allows data transfer and download, if not match error message is displayed and access is inhibited).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings of Chiles within the system of Howard because it would determine whether the network adapter card used to connect to the web server has a media access control address or not to update the network adapter card. The network card would have discrimination indication to indicate the, service provider, what type of portable device (laptop or PDA) is used in order to charge fewer prices to the PDA users than laptop users. PDA users get charged less because there is less network traffic in using PDA than laptops.

As per claim 2, Both Howard and Chiles teach the subject matter as described above. In addition Howard teaches the method wherein the portable data device is a notebook computer (Howard page 1 par. 0009).

As per claim 3, Both Howard and Chiles teach the subject matter as described above. In addition

Chiles teaches the method wherein if the data transfer is inhibited, the portable data device requests an upgrade key value (Chiles Fig. 4 No. 330 and col. 3 lines 50-59). The rational for combining are the same as claim 1 above.

As per claim 7, Both Howard and Chiles teach the subject matter as described above. In addition Chiles teaches the method wherein the platform discrimination indicates the value in the wireless network card is modified when transmissions are enabled (Chiles Col. 3 lines 61-67; modifying (updating) the network adapter card). The rational for combining are the same as claim 1 above.

As per claim 9, Both Howard and Chiles teach the subject matter as described above. In addition

Howard teaches a wireless network card, PDA and notebook to connect to other computers. (Howard page 1 par. 0009), network card with an expanded set of portable data devices (Howard page 1 par. 0009; laptop), the expanded set of portable data devices including the restricted set of portable data devices (Howard page 1 par. 0009, PDA), as well as additional portable data devices not included in the restricted set of portable data devices (Howard page 1 par. 0009; laptop),

Charles teaches wherein the platform discrimination indication determines whether the wireless network card can be used with the given type of device (Chiles Col. 3 lines 37-48; the network adapter card if media access control is stored in the network adapter card in order to use the card in the specific device), one value of the platform discrimination indication allowing the wireless network card to be used with a restricted set of the data devices (Chiles Col. 3 lines 37-48; the network adapter card if media access control is stored in the network adapter card

allowing the network adapter card to be used with the specific device). The rational for combining are the same as claim 1 above.

As per claim 22, Both Howard and Chiles teach the subject matter as described above. In addition Howard teaches a wireless network card, PDA and notebook to connect to other computers. (Howard page 1 par. 0009), network card with an expanded set of portable data devices (Howard page 1 par. 0009; laptop), the expanded set of portable data devices including the restricted set of portable data devices (Howard page 1 par. 0009, PDA), as well as additional portable data devices not included in the restricted set of portable data devices (Howard page 1 par. 0009; laptop),

Charles teaches wherein the platform discrimination indication determines whether the wireless network card can be used with the given type of device (Chiles Col. 3 lines 37-48; the network adapter card if media access control is stored in the network adapter card in order to use the card in the specific device), one value of the platform discrimination indication allowing the wireless network card to be used with a restricted set of the data devices (Chiles Col. 3 lines 37-48; the network adapter card if media access control is stored in the network adapter card allowing the network adapter card to be used with the specific device). The rational for combining are the same as claim 1 above.

As per claim 23, Both Howard and Chiles teach all the subject matter as described above. In addition Howard teaches the wireless network card wherein the restricted set of portable data devices includes a personal digital assistant but does not include notebook computers (Howard

Page 4 par. 0040; PDA).

As per claim 24, Both Howard and Chiles teach all the subject matter as described above. In addition Howard teaches wherein the expanded set of portable data devices include notebook computers (Howard Page 4 par. 0040; laptop).

As per claim 25, Both Howard and Chiles teach all the subject matter as described above. In addition Chiles teaches the system in which the platform discrimination indication can be upgraded from the restricted set of portable data devices to the unrestricted set (Charles Col. 3 lines 36-48; upgrading the network adaptor card from the restricted set to data). The rationale for combining are the same as claim 1 above.

4. Claims 10, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (Pub. No.: US 2002/0090939 A1) in view of Ferchau et al. (Ferchau, Pub. No.: US 2002/0009687 A1).

As per claim 10, Howard teaches a method comprising:

Howard teaches a wireless network card, PDA and notebook to connect to other computers. (Howard page 1 par. 0039-40),

Howard do not teach calculating ID value using the first key value to calculate a calculated ID value; and

comparing the calculated ID value to the electronic ID of the wireless network card so that if the calculated ID value matches the electronic ID of the wireless network card data transmissions from the portable data device through the wireless network card are enabled;

However Ferchau teaches

using an input electronic ID to determine a first key value (Ferchau Page 5 par. 0056; using encryption key (ID) to determine a software verification value (first key value);

using the first key value to calculate a calculated ID value (Ferchau Page 5 par. 0056; using software verification value (first key value) to calculate a newly computed software verification value (calculated ID value); and

comparing the calculated ID value to the electronic ID (Ferchau Page 5 par. 0056; comparing the newly calculated software verification value (calculated ID value) to software verification value (electronic ID)) so that if the calculated ID value matches the electronic ID card data transmissions from the data device through the network are enabled (Ferchau Page 5 par. 0056; if match data transmission (result) is enabled).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings of Ferchau within the system of Howard because it would verify a data file by calculating the received software verification value and encryption key and generate a newly software verification key value and compare the newly generated software verification key value with the with the received software verification value and transmit data or result if there is a match.

As per claim 16, Both Howard and Ferchau teach the subject matter as described above. In

addition Ferchau teaches the method wherein the production of the key value is done using an encryption algorithm (Ferchau Fig. 1A No. 102).

As per claim 17, Both Howard and Ferchau teach the subject matter as described above. In addition Ferchau teaches the method wherein the production of the calculated I.D. value is done using a decryption algorithm (Ferchau Fig. 1A No. 102).

5. Claims 4-6, 8, 11-14, 18-21, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (Pub. No.: US 2002/0090939 A1) in view of Chiles et al. (Chiles, Patent No.: US 6,363,423 B1) and of Ferchau et al. (Ferchau, Pub. No.: US 2002/0009687 A1).

As per claim 27 Howard teaches a wireless network card software driver for a portable data device (Howard Page 4 par. 0040), the wireless network card software driver adapted to implement the steps of:

Howard does not teach:

checking a wireless network card for a stored platform discrimination indication; and
using platform discrimination indication to determine whether to enable data transfer using the wireless network card;

However Chiles discloses checking a wireless network card for a stored platform discrimination indication (Chiles Col. 3 lines 37-48; the network adapter card if media access control is stored in the network adapter card);

depending on the value of the platform discrimination indication, inhibiting or allowing data transfer using the wireless network card (Chiles Fig. 4 No 270 & 320, and 300; if the serial number assigned to the network received and the server searches the media access control address corresponding to the serial number of the network card and if match it allows data transfer and download, if not match error message is displayed and access is inhibited);

prompting user for key value (Chiles Fig. 4 No. 240; user entering serial number);

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings of Chiles within the system of Howard because it would determine whether the network adapter card used to connect to the web server has a media access control address or not to update the network adapter card. The network card would have discrimination indication to indicate the, service provider, what type of portable device (laptop or PDA) is used in order to charge fewer prices to the PDA users than laptop users. PDA users get charged less because there is less network traffic in using PDA than laptops.

Howard and Chiles do not teach

to determine a calculated ID value;

comparing the calculated ID value with ID value obtained;

However Ferchau teaches

using key value to determine a calculated ID value (Ferchau Page 5 par. 0056;
determining a newly calculated software verification value (a calculated ID value) by using
encryption key and software verification value);

comparing the calculated ID value with ID value obtained (Ferchau Page 5 par. 0056;
comparing the newly calculated software verification value (calculated ID value) with software
verification value obtained);

if calculated ID value matches ID value obtained, modifying a device to enable data
transfer (Ferchau Page 5 par. 0056; if match, data (result) is transferred to a device and software
verification data is modified and newly calculated result is stored).

Therefore it would have been obvious to one having ordinary skill in the art at the time of
the invention was made to employ the teachings of Ferchau within the system of Howard and
Chiles because it would verify a data file by calculating the received software verification value
and encryption key and generate a newly software verification key value and compare the newly
generated software verification key value with the received software verification value and
transmit data or result if there is a match.

As per claim 4 Howard, Chiles and Ferchau teach all the subject matter as described above. In
addition Ferchau teaches the method wherein if an upgrade key value is provided by a user, the
data device calculates a unique calculated I.D. value (Ferchau Page 5 par. 0056). The rationale for
combining are the same as claim 27 above.

As per claim 5 Howard, Chiles and Ferchau teach all the subject matter as described above. In addition Ferchau teaches the method wherein the calculated I.D. value is compared to a unique electronic I.D. value stored (Ferchau Page 5 par. 0056). The rationale for combining are the same as claim 27 above.

As per claim 6 Howard, Chiles and Ferchau teach all the subject matter as described above. In addition Ferchau teaches the method wherein if the calculated I.D. value matches the electronic I.D. value of the wireless network card, transmissions from the computer to the device are enabled (Ferchau Page 5 par. 0056; if match, data (result) is transferred to a device). The rationale for combining are the same as claim 27 above.

As per claim 8 Howard, Chiles and Ferchau teach all the subject matter as described above. In addition Ferchau teaches wherein the key value is obtained by providing the unique electronic I.D. value to a program that calculates the key value (Ferchau Page 5 par. 0056; newly calculated software verification value is obtained by providing a unique encryption key value to a program that calculates the key value). The rationale for combining are the same as claim 27 above.

As per claim 11, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Charles teaches the method wherein the first key is a platform activator key (Charles Fig. 4 No. 240 & col. 3 lines 44-46; media access control address associating the serial number is stored in the network adapter card).

As per claim 12, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Charles teaches the method wherein when the calculated I.D. value matches the electronic I.D. value of the wireless network card, the platform discrimination indication on the wireless network card is modified (Chiles Col. 3 lines 61-67; modifying (updating) the network adapter card).

As per claim 13, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Charles teaches the method wherein the platform discrimination indication is checked before transmitting from the wireless network card using one type of portable data device (Charles Fig. 4 No. 270 & 310).

As per claim 14, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Howard teaches the method wherein other types of portable data devices do not require a check of the platform discrimination indication before operation (Howard Page 1 par. 0009).

As per claim 18, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Howard teaches the method wherein the portable data device includes a device driver (Howard page 1 par. 0009; laptop or PDA driver to exchange data).

As per claim 19, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Chiles teaches the method in which a cell service provider is used to provide the first key value (Chiles Fig. 4 No. 260; searching the serial number provided to the network adapter

card in the provider file).

As per claim 20, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Chiles teaches the method wherein the electronic I.D. value is stored on the wireless network card (Chiles Col. 3 lines 61-67 and col. 3 lines 44-48; serial number corresponding to the media access control is stored on the network adapter card).

As per claim 21, Howard, Chiles and Ferchau teach the subject matter as described above. In addition Chiles teaches the method in which a personal computer obtains the electronic I.D. from the wireless network card electronically (Howard Page 4 par. 0040).

As per claim 26 Howard, Chiles and Ferchau teach all the subject matter as described above. In addition Ferchau teaches wherein the user takes an electronic I.D., uses the electronic I.D. to produce a first key value (Ferchau Page 5 par. 0056), this first key value is then used by the data device to calculate a calculated I.D., if the calculated I.D. matches the electronic I.D., (Ferchau Page 5 par. 0056; encryption key and software verification value is received and newly calculated software verification value is generated to be compared with the received value and data (result) is transmitted to modify the previously saved data packet). The rationale for combining are the same as claim 27 above.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (Pub. No.: US 2002/0090939 A1) in view of Ferchau et al. (Ferchau, Pub. No.: US 2002/0009687 A1), and in further view of Alexander et al. (Alexander, Patent Number: 6,134,593).

As per claim 15 both Howard and Ferchau teach the subject matter as described above.

Howard and Ferchau do not teach charging a fee when the first device provides the first key.

However Alexander teaches the method which fees are charged when the key value is provided (Abstract; fees are charged when a user transmits a computing device identifier).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings of Alexander within the combination system of Howard and Ferchau because it would allow to process payment and grant access to software applications.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni A Shiferaw whose telephone number is 571-272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2136

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eleni Shiferaw
Art Unit 2136
January 13, 2005

E. Shiferaw
EMMANUEL L. NOISE
PRIMARY EXAMINER